

Superseded 5/10/2016

61-1-12 Denial, suspension, and revocation of registration.

- (1) Upon approval by a majority of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order that denies effectiveness to, or suspends or revokes the effectiveness of, any securities registration statement and may impose a fine if the director finds that the order is in the public interest and that:
 - (a) the registration statement, as of its effective date or as of any earlier date in the case of an order denying effectiveness, or an amendment under Subsection 61-1-11(10) as of its effective date, or a report under Subsection 61-1-11(9), is incomplete in a material respect, or contains a statement that was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact;
 - (b) this chapter, or a rule, order, or condition lawfully imposed under this chapter, is willfully violated, in connection with the offering, by:
 - (i) the person filing the registration statement;
 - (ii) the issuer, a partner, officer, or director of the issuer, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or
 - (iii) an underwriter;
 - (c) subject to Subsection (5), the security registered or sought to be registered is the subject of an administrative stop order or similar order, or a permanent or temporary injunction of a court of competent jurisdiction entered under another federal or state act applicable to the offering;
 - (d) the issuer's enterprise or method of business includes or would include activities that are illegal where performed;
 - (e) the offering has worked or tended to work a fraud upon purchasers or would so operate;
 - (f) the offering is or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options;
 - (g) when a security is sought to be registered by coordination, there is a failure to comply with the undertaking required by Subsection 61-1-9(2)(d); or
 - (h) the applicant or registrant has failed to pay the proper filing fee.
- (2) The director may enter an order under this section but may vacate the order if the director finds that the conditions that prompted its entry have changed or that it is otherwise in the public interest to do so.
- (3) The director may not issue a stop order against an effective registration statement on the basis of a fact or transaction known to the division when the registration statement became effective unless the proceeding is instituted within the 120 days after the day on which the registration statement becomes effective.
- (4) A person may not be considered to have violated Section 61-1-7 or 61-1-15 by reason of an order or sale effected after the entry of an order under this section if that person proves by a preponderance of the evidence that the person did not know, and in the exercise of reasonable care could not have known, of the order.
- (5)
 - (a) The director may not commence agency action against an effective registration statement under Subsection (1)(c) more than one year from the day on which the order or injunction on which the director relies is issued.

- (b) The director may not enter an order under Subsection (1)(c) on the basis of an order or injunction entered under the securities act of another state unless that order or injunction is issued on the basis of facts that would constitute a ground for a stop order under this section at the time the director commences the agency action.